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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
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7 FRANK P. BARRASSO,

8 Plaintiff,

9 vs.

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11 MITKA KALINSKI, et al.

12 Defendants.
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3:12-CV-0471-RCJ (VPC)

ORDER

October 22, 2012

15 Before the court is plaintiff's application to proceed *in forma pauperis* (#1) and motion for
16 appointment of counsel (#3), and a proposed civil rights complaint (#1-1).

17 **I. MOTION FOR IN FORMA PAUPERIS STATUS**

18 In his application for *in forma pauperis* status, plaintiff states that he is receiving disability
19 payments in the amount of \$950.00 a month (#1). The only other income he has received in the past
20 twelve months is \$1,200.00 from his parents. *Id.* He currently only has \$65.00 in cash, and a 1999
21 automobile is his only asset. *Id.* Therefore, plaintiff's request to proceed *in forma pauperis* (#1) is
22 **GRANTED.** The Clerk of the Court shall **FILE** the complaint. The movant herein is permitted to
23 maintain this action to conclusion without the necessity of prepayment of fees or costs or the giving of
24 security therefor. This order granting *in forma pauperis* status shall not extend to the issuance of
25 subpoenas at government expense.

26 **II. MOTION FOR APPOINTMENT OF COUNSEL**

27 Plaintiff has filed a document entitled, "Substitution of Attorney" wherein he requests that the
28 court appoint the Federal Public Defender to represent him in this civil action (#3). In order to determine

1 whether appointment of counsel is appropriate the court must assess three factors: (1) the plaintiff's
 2 financial resources, (2) the efforts made by the plaintiff to secure counsel, and (3) whether the plaintiff's
 3 claim has merit. *Bradshaw v. Zoological Society of San Diego*, 662 F.2d 1301, 1318 (9th Cir. 1981). By
 4 granting plaintiff's motion to proceed *in forma pauperis* (#4) the first factor is resolved in plaintiff's
 5 favor.

6 It appears from plaintiff's request that he has not contacted any local attorneys. Although he need
 7 not contact every lawyer in the greater Reno area, more of an attempt should be made at securing a lawyer
 8 than he has made thus far. The yellow pages are a good place to start.

9 Because the plaintiff has failed to meet the second requirement, plaintiff has failed to make the
 10 showing necessary for appointment of counsel. Therefore, plaintiff's request for appointment of counsel
 11 (#3) is **DENIED**.

12 **III. COMPLAINT**

13 Plaintiff is advised that under Federal Rule of Civil Procedure 12(b)(6), a complaint may be
 14 dismissed for failure to state a claim upon which relief can be granted. Fed.R.Civ.P. 12(b)(6). The court
 15 may *sua sponte* dismiss a pleading for failure to state a claim upon which relief can be granted. *See Lee*
 16 *v. City of Los Angeles*, 250 F.3d 668 (9th Cir. 2001); *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th
 17 Cir.1987).

18 Plaintiff's complaint does not state the nature of the case and does not include any claims for relief
 19 whatsoever (#1-1). Plaintiff merely attaches a statement to his complaint which indicates that he would
 20 like to file a criminal complaint against the defendants because they tried to "entrap [him] in some type
 21 of HOLOCAUST SCAM TO RECEIVE BENEFITS." *Id.* Plaintiff attaches various other documents
 22 including receipts, copies of business cards, a traffic ticket, and another narrative statement about the
 23 Holocaust. *Id.*

24 As the complaint is currently pled, it does not appear to state a claim upon which relief may be
 25 granted. Plaintiff may wish to seek the advice of counsel of his own choosing or he may wish to contact
 26 one of the following agencies to seek assistance before proceeding in this case:

27 Washoe Legal Services 329-2727

28 Nevada Legal Services 883-0404

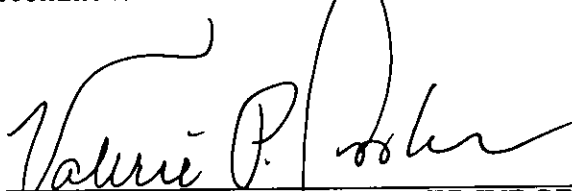
1 Nevada Disability Advocacy and Law Center 333-7878
2 Senior Law Project 328-2592
3 Volunteer Attorneys for Rural Nevadans 883-0404
4 State Bar of Nevada Lawyer Referral and Information Service 800-789-5747

5 **IV. CONCLUSION**

6 Based on the foregoing and with good cause appearing, **IT IS ORDERED** as follows:

- 7 1. Plaintiff's application to proceed *in forma pauperis* (#1) is **GRANTED**;
8 2. The Clerk shall **FILE** the complaint (#1-1);
9 3. Plaintiff's complaint is **DISMISSED with leave to amend**; and
10 4. The Clerk shall **SEND** to plaintiff another form for filing a complaint. Plaintiff shall
11 lodge a proposed complaint which states a claim upon which relief may be granted with
12 the court within twenty (20) days of the date of this order. If plaintiff fails to do so, this
13 court will issue a report and recommendation to the District Court to dismiss this case.

14 Dated: October 22, 2012.

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16 UNITED STATES MAGISTRATE JUDGE
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